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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,922	08/10/2001	Richard Alexander	0164-4015	6059

7590

04/24/2003

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EXAMINER

WEAVER, SUE A

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 04/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/927,922

Applicant(s)

ALEXANDER

Examiner

Sue A. Weaver

Art Unit

3727



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 13, 2003
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 18-22, 24-28, 30-34, 36-40, 42-45, 47-50, and 52-67 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18-22, 24-28, 30-34, 36-40, 42-45, 47-50, and 52-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Aug 10, 2001 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other: _____

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1. The corrected or substitute drawings were received on 2/13/03. These drawings are acceptable.
2. The drawings remain objection to under 37 CFR 1.83 (a) with regard to the method steps claimed in claims 55-66.
3. The rejection of claims 56-58, 60-62 and 64-66 under 35 U.S.C. 112, second paragraph made in paragraph 2 of the previous Office action, Paper No. 5, is withdrawn in view of the amendment received 2/13/03.
4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 10-12, 15, 16, 19, 22, 25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sachs, of record in view of Marbler.

Applicant has argued the use of a stop along a zone of weakness or tear strip which opens a bag. Marbler is considered to teach the provision of a "stop" along a perforated or tear strip which opens a bag, as is known in the packaging art. To have merely provided the tear strip or zone of weakness of Sachs with such a "stop" to prevent separation would have been obvious in view of such teaching by Marbler.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lim, of record, in view of Marbler..

To have merely provided the zone of weakness of Lim with a stop to prevent separation, would have been obvious in view of such teaching by Marbler.

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6 Claims 4, 6, 7, 31, 34, 45, 48, 50 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sachs in view of either Lim or LaRosa, all of record, and Marbler.

To have merely formed the zones of weakness on both the front and back sides of the cover to ease removal would have been obvious in view of either Lim or LaRosa teaching such orientation. To have provided a stop in the zone of weakness to prevent separation, would have been obvious in view of Marbler.

7 Claims 8, 9, 13, 14, 18, 21, 24, 27, 30, 33, 36, 39, 42, 44, 47, 49, 53 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1-7 above, and further in view of Gilchrist, Jr in the manner set forth in paragraph 6 of the previous Office action, Paper No. 5

8. Claims 37 and 40 rejected under 35 U.S.C. 103(a) as being unpatentable over Sachs in view of Lim as applied in paragraph 7 of the previous office action, and further in view of Marbler.

To have provided a stop in the zone of weakness to prevent separation would have been obvious in view of the teaching of Marbler.

9. Claims 12, 20, 26, 32, 38 and 43 rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1-7 above, and further in view of Gluckenberg in the manner set forth in paragraph 9 of the previous Office action.

10. Claim 55 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1-7 and 53 above, and further in view of Smyth.

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To have simply made the cover from a tubular extrusion would have been obvious in view of Smyth, recognizing such well-known method.

11. Claim 63 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 54 above, and further in view of Smyth in the manner set for in paragraph 10 above and Venturini, of record.

To have further directed the diagonal zones as a pattern which extends along the length of the cover would have been obvious in view of the alternate teaching by Venturini in Figure 7.

12. Claims 56, 58, 60, 62, 64 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 55, 59 and 63 above, and further in view of Chester for the reasons set forth in paragraph 12 of the previous Office action.

13. Claims 57, 61 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 55, 59 and 63 above, and further in view of Glukenberg, for the reasons set forth in paragraph 13 of the previous Office action.

14. Claim 67 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt et al, of record, in view of Marbler.

To have provided a stop on the line of weakness of Schmidt et al, in order to prevent separation, would have been obvious in view of the teaching by Marbler.

15 Applicant's arguments with respect to claims 1-7, 52-56, 59, 63 and 67 have been considered but are moot in view of the new ground(s) of rejection.

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Applicant's argument has been directed to the teaching for a stop on a line of weakness for opening a package and Marbler is considered to teach such a concept. Moreover, forming covers by tubular extrusion is a well-known method, as disclosed by Smyth.

Therefore, claims 1-16, 18-22, 24-28, 30-34, 36-40, 42-45, 47-50 and 52-67 have been rejected while, claims 17, 23, 29, 35, 41, 46 and 51 have been canceled.

16 The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Weihrauch shows another extruded garment cover. Derenthal is an example of another stop on a line of weakness for opening a bag.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver on Tuesday-Friday and whose telephone number is (703) 308-1186.

FAX: (703) 305-3579.



Sue A. Weaver
Primary Examiner

SW

April 18, 2003